

Dated: September 4, 2013



A handwritten signature in black ink, reading "Brenda Moody Whinery", is written over a horizontal line.

Brenda Moody Whinery, Bankruptcy Judge

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA**

9 In re:

10 AARON COLE RUBIN AND JESSICA  
11 MARIE RUBIN

12 Debtors.

Chapter 11

Case No. 4:13-bk-01496

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**ORDER FOR AN AMENDED  
DISCLOSURE STATEMENT**

14 Aaron Cole Rubin and Jessica Marie Rubin ("Debtors") filed a Disclosure Statement on  
15 June 3, 2013 (Docket No. 37), to which no objections have been filed. A hearing was  
16 conducted, the Court has reviewed the Disclosure Statement and the applicable law, and now  
17 the Court issues its ruling concerning the adequacy of the Disclosure Statement.

18 Disclosure statements are governed by 11 U.S.C. § 1125. Their purpose is set forth  
19 both in the legislative history and in the statute itself. The disclosure statement is intended to  
20 give such additional information as will assist a typical creditor, in a particular class, to make  
21 an informed judgment as to how it will vote on a proposed plan. 11 U.S.C. § 1125(a)(1).

22 In addition to reviewing the plan itself with respect to the adequacy of the information  
23 furnished, the Court also must consider its audience. In that regard, § 1125(a)(2) states that the  
24 disclosure statement must be meaningful to an "investor typical of holders of claims or interests  
25 of the relevant class." In determining whether an investor is "typical," the relevant  
26 considerations are: (1) whether the investor has claims in the particular class; (2) whether the  
27 investor has a relationship to the debtor as such claimants generally have; and (3) whether the  
28 creditor has the ability to obtain information from sources other than the disclosure statement.

1 In determining the adequacy of a disclosure statement, Courts generally follow the  
2 guidelines set forth in In re A.C. Williams Co., 25 B.R. 173, 176 (Bankr. N.D. Ohio 1982). An  
3 adequate disclosure statement primarily requires that creditors be given the information needed  
4 to determine whether to accept or reject a plan. In re Monnier Bros., 755 F.2d 1336, 1342 (8th  
5 Cir. 1985); In re Diversified Investors Fund XVII, 91 B.R. 559 (Bankr. C.D.Cal. 1988).

6 In this case, the Court concludes that the Disclosure Statement does not comply with  
7 the guidelines set forth in A.C. Williams Co. as indicated on Exhibit A attached hereto.

8 IT IS ORDERED that Debtor shall make the changes enumerated on Exhibit A, and  
9 shall file an Amended Disclosure Statement within fifteen (15) days of the entry of this Order.

10 IT IS FURTHER ORDERED that Debtor shall, in addition to filing an Amended  
11 Disclosure Statement, deliver to chambers a copy of the Amended Disclosure Statement that is  
12 red-lined or otherwise marked to indicate the changes that have been made in order to conform  
13 to this Order. You must notify my law clerk and/or courtroom deputy by phone or email to  
14 inform us that the redlined/amended disclosure statement has been sent. Thereafter, this Court  
15 will review the red-lined copy of the Amended Disclosure Statement and, if such changes are  
16 deemed adequate, the Court will notify you that the Amended Disclosure Statement is  
17 approved. You may then obtain a hearing date from the courtroom deputy and upload an order  
18 approving the disclosure statement and setting the matter for confirmation.

19 If you fail to notify us and/or file a redlined/amended disclosure statement within the  
20 fifteen day time frame, your case may be dismissed or converted.

21 DATED AND SIGNED ABOVE.

22  
23 Notice to be sent through the  
24 Bankruptcy Noticing Center ("BNC")  
to the following:

25 Aaron Cole Rubin and Jessica Marie Rubin  
26 2625 E. Prince Road  
Tucson, AZ 85716

Scott Gibson  
Thompson Krone Gibson, P.L.C.  
6303 East Tanque Verde Road, Suite 210  
Tucson, AZ 85715

27 U.S. Trustee  
28 230 N. First Ave., Suite 204  
Phoenix, AZ 85003

1 **EXHIBIT A**

2 The Court has indicated those areas of disclosure that are present in the Disclosure Statement,  
3 and has left a blank with respect to those areas that are absent. More importantly, the Court has  
4 provided comments with respect to those areas of disclosure that are either absent OR  
inadequate. COUNSEL SHOULD ADDRESS ALL COMMENTS in the amended disclosure  
statement.

5 A.C. WILLIAMS FACTORS PRESENT:

- 6   X   Incidents that led to filing Chapter 11
- 7
- 8   X   Description of available assets and their value
- 9
- 10  (1)  The anticipated future of the debtor
- 11
- 12  (3)  The source of information of the disclosure statement
- 13
- 14  (3)  A disclaimer
- 15
- 16   X   The present condition of the debtor in Chapter 11
- 17
- 18   X   A listing of the claims scheduled
- 19
- 20  (2)  A liquidation analysis
- 21
- 22  (4)  The identity of the accountant and the process used to value the properties
- 23
- 24   X   The future management of the debtor
- 25
- 26   X   A plan is attached
- 27
- 28   X   A summary of the plan of reorganization
- 29
- 30  (5)  An estimate of all administrative expenses, including attorneys' fees
- 31
- 32  (1)  The collectability of any accounts receivable
- 33
- 34  (1)  Financial information relevant to a creditor's decision whether to accept/reject
- 35
- 36   X   Information relevant to the risks being taken by creditors
- 37
- 38  (6)  Value, if any, that may be obtained by avoiding pre-petition transfers
- 39
- 40  (6)  Existence, likelihood, and possible success of non-bankruptcy litigation

1 (6) Tax consequences of the plan

2 X Relationship of the debtor with affiliates, if any

3  
4 In re A.C. Williams, 25 B.R. 173 (Bankr. N.D. Ohio 1982)

5 Additional details under the A.C. Williams standard:

6 (1) The Amended Disclosure Statement must explain in greater detail the anticipated future of  
7 the Debtors, including a more detailed description of new employment and the collectability of  
8 the Debtors' accounts receivable on the properties rented out.

9 (2) The Amended Disclosure Statement must include a more detailed description of the source  
10 and method of valuation used in the liquidation analysis.

11 (3) The Amended Disclosure Statement must identify the source of information provided in the  
12 document and a disclaimer about statements regarding Debtors.

13 (4) The Amended Disclosure Statement must identify the accountant or accounting method  
14 used to prepare the document, if any.

15 (5) The Amended Disclosure Statement must include a specific estimate of administrative  
16 expenses, including attorney's fees.

17 (6) The Amended Disclosure Statement must address: (a) any prepetition transfer that may be  
18 avoided; (b) the existence and likely outcome of any non-bankruptcy litigation; and (c) the tax  
19 consequences of the plan.

20 IN ADDITION TO THE FOREGOING: